

# Memorandum

**TO: HONORABLE MAYOR AND  
CITY COUNCIL**

**FROM:** Scott P. Johnson

**SUBJECT:** SEE BELOW

**DATE:** June 9, 2006

Approved



Date

6/12/06

**SUBJECT: BUSINESS TAX AND BUSINESS IMPROVEMENT DISTRICTS (BID)  
ASSESSMENT AMNESTY PROGRAMS AND CHANGES TO THE  
BUSINESS TAX HARDSHIP EXEMPTION PROCESS**

## RECOMMENDATION

- (a) Approval of an ordinance authorizing the director of finance to administer a business tax amnesty program which forgives taxpayers who pay certain past due business taxes from liability for remaining past due business taxes, interest, and penalties;
- (b) Approval of an ordinance authorizing a Business Improvement District Assessment Amnesty Program for the Downtown, Japantown, and Willow Glen Business Improvement Districts to run concurrently with the Business Tax Amnesty Program; and
- (c) Approval of an ordinance amending Section 4.76.345 of Chapter 4.76 of Title 4 of the San José Municipal Code to simplify the business tax hardship exemption process by eliminating the current requirement that sole proprietorships who have claimed the exemption file with the City a statement of financial hardship with supporting evidence by November 30 of the following year.

## OUTCOME

To encourage San Jose business owners to pay past due Business Tax and Business Improvement District (BID) assessments and to increase current and future Business Tax and BID assessment revenues and to streamline the administrative hardship exemption process for the payment of Business Tax by sole proprietorships.

## BACKGROUND

In 1998, Finance administered the last Business Tax Amnesty Program, including a Business Improvement District Assessment Amnesty Program, generating approximately \$1.9 million dollars in additional revenue from about 6,600 tax payers.

June 9, 2006

**Subject: Business Tax and Business Improvement Districts (BID) Assessment Amnesty Programs and Changes to the Business Tax Hardship Exemption Process**

Page 2

Through the FY 2003-04 budget process, Council approved the Finance Department's budget proposal to implement a Business Information Management System (BIMS) Leads Project and a Business Tax Amnesty Program. The BIMS project combines data from various sources such as the California Franchise Tax Board, the State Resale Permits, and the Fictitious Business Filings to identify businesses which have not paid the City's Business Tax. This data base is compared to the City's business tax certificate program to generate potential leads of businesses that may be operating in San Jose without the benefit of a business tax. Through the BIMS Project, non-compliant business tax customers are identified and the City collects business taxes due to the City including penalties and interest. In comparison, an Amnesty Program sets the framework for voluntary compliance from businesses that operate within the City of San Jose that are not in compliance with the City's Business Tax Ordinance. The Amnesty program is designed to waive all penalties and interest for past due business taxes.

During FY 2003-2004, Finance Department efforts through the BIMS Project generated \$1.7 million in additional revenue to the City (including business taxes, interest and penalties). Due to the success of the BIMS Project, during the budget process for FY 2004-05, the Council approved staff's recommendation to defer implementation of the business tax amnesty program and directed staff to continue working on the BIMS project as a means to generate additional revenue due to the City. During FY 2004-05, the BIMS Project generated \$1.3 million in additional revenue (including business taxes, penalties and interest). To date in FY 2005-06 (as of May 22, 2006), BIMS, has generated additional revenue of approximately \$800,000. Total additional revenue generated by the Finance Department's efforts through BIMS has generated over \$3.8 million in additional revenue (including over \$3 million in taxes and approximately \$800,000 in penalties and interest). The number of business tax accounts has increased from 66,400 at the beginning of the BIMS Project to 76,800. This represents an increase in business tax certificates of 10,400 (a 16% increase).

Since a significant number of business tax leads generated from BIMS have been followed up by the Finance Department, staff recommends moving forward with the business tax amnesty program. The Finance Department has developed a plan to begin the implementation of the Business Tax Amnesty program starting August 1, 2006 to encourage San Jose business owners to pay past due Business Tax and to increase current and future Business Tax revenue. As stated in the 2005-2006 Budget, staff expects to generate approximately \$1 million in additional revenue through the amnesty program. Some of this additional revenue may result in ongoing increases to annual Business Tax revenue collections.

On June 1, 2004, the Council approved changes to the hardship exemption process. Prior to June 1, the sole proprietorship was required to pay the business tax up front and then seek a refund. After June 1, the sole proprietorship is allowed to claim a hardship exemption up front and then produce proof of eligibility by filing appropriate business records by November 30 following the calendar year the business tax was due. Unfortunately, this process has proven cumbersome for the business owners and staff is recommending a change to help streamline the process.

HONORABLE MAYOR AND CITY COUNCIL

June 9, 2006

**Subject: Business Tax and Business Improvement Districts (BID) Assessment Amnesty Programs and Changes to the Business Tax Hardship Exemption Process**

Page 3

## **ANALYSIS**

### **Business Tax Amnesty and BID Amnesty**

The Business Tax Amnesty and BID Amnesty periods will affect tax and assessment periods from August 1, 2003 through July 31, 2006, capping the maximum amount of unpaid Business Tax and assessment liabilities at three prior years. The period during which a business owner may file a request for amnesty is scheduled to commence on August 1, 2006 and ends on September 29, 2006.

The BID Amnesty Program will include assessments owed to the City's three Business Improvement Districts (Willow Glen Business Improvement District, Japantown Business Improvement District, and Downtown Business Improvement District). All proceeds derived from the BID Amnesty Program will benefit the respective Business Improvement District.

During the amnesty period, the Director of Finance will be authorized to waive all interests and penalties for the affected tax periods (August 1, 2003 - July 31, 2006) for never registered, and delinquent tax payers (except for taxpayers against whom a civil or criminal action for business tax liability was commenced prior to July 31, 2006). The same is true for the unpaid BID assessments.

The Director of Finance will encourage payment of outstanding tax liabilities and assessments in full. However, an installment payment plan will be offered for businesses owing more than one year of outstanding business tax or assessment, as applicable. The installment payment plan will require that one third of the outstanding tax or assessment plus a \$50 dollar installment payment plan fee be paid immediately. The remainder of the tax or assessment due will be payable in two equal monthly installments due 30 days and 60 days, respectively, from the date of the initial amnesty tax or assessment payment and application. The \$50 installment payment plan fee reimburses the City for administering the installment payment plan. If a business owner does not comply with the terms of the payment plan, the unpaid tax or assessment including penalties and interest retroactive to the date the tax or assessment was originally owed will become due immediately.

The Business Tax Amnesty program requires outreach to the Business Community through advertisements in print media and public service announcements at Radio Stations, mailing of letters and invoices, hiring of overstrength staff to process business tax applications and payments of business tax, and acquiring computers and phones to support these staff members. Staff anticipates that the additional revenue generated by the Amnesty Program will cover these additional costs.

### **Changes to the Hardship Exemption Process**

In June 2004, modifications to the hardship exemption eligibility and process were approved by Council. In calendar year 2005, the first full year staff tracked hardship exemption requests, Finance processed 1,095 hardship exemption requests. From January 1 until May 23, 2006, Finance processed an additional 801 requests. Assuming that the trend will continue for the remainder of the calendar year, Finance expects to process nearly double the amount of requests for calendar year 2006 in comparison to the previous calendar year. Since sole proprietorships

June 9, 2006

**Subject: Business Tax and Business Improvement Districts (BID) Assessment Amnesty Programs and Changes to the Business Tax Hardship Exemption Process**

Page 4

have to file hardship exemption requests annually, Finance expects that the City will process hardship exemption requests for an additional 1,000 new sole proprietorships.

With the current process, Finance staff tracks and matches the hardship exemption requests with the business records produced by November 30 of the following year. If a sole proprietorship does not submit the business records by the November 30 deadline, Finance issues a reminder and invoices the sole proprietorship for the full Business Tax amount due.

The hardship exemption program was implemented to recognize the importance of a thriving small business community. However, this process has become administratively burdensome for staff and business alike. To reduce the administrative process while ensuring that the Business Tax owed is paid, Finance proposes to eliminate the November 30 due date and rely on regular audits of hardship exemption requests as authorized by the Municipal Code.

### **ALTERNATIVES**

Not applicable.

### **PUBLIC OUTREACH**

The business community will be informed about the upcoming Business Tax Amnesty and BID Amnesty programs through news releases, print media advertisements, and public service announcements.

### **COORDINATION**

This memorandum was coordinated with the City Manager's Office, the City Manager's Budget Office, the City Attorney's Office, the Office of Economic Development, and representatives of the Business Improvement Districts.

### **COST IMPLICATIONS**

Through the Business Tax Amnesty program, staff expects to generate \$1 million in additional Business Tax revenue for 2006-2007 and additional revenue for the three Business Improvement Districts. Further, the City will identify new business owners who are expected to pay the annual business tax and assessment after the conclusion of the amnesty contributing to ongoing additional Business Tax and assessment revenue.

The cost for the Business Tax Amnesty program will be fully reimbursable.

HONORABLE MAYOR AND CITY COUNCIL

June 9, 2006

**Subject: Business Tax and Business Improvement Districts (BID) Assessment Amnesty Programs and Changes to the Business Tax Hardship Exemption Process**

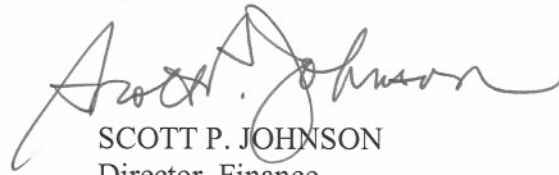
Page 5

**BUDGET REFERENCE**

Fund #	Appn.#	Appn. Name	RC#	Total Appn.	Amt for Contract	Adopted Budget	Last Budget Action (Date, Ord No.)
001	0492	Non-Personal/ Equipment	150	\$1,215,904	\$228,400 (this is the total amount for the Amnesty Program)	VII-558	02/14/2006 Ord. No. 27665

**CEQA**

Not a project.

  
SCOTT P. JOHNSON  
Director, Finance

For questions, please contact Scott P. Johnson, Director, Finance, at (408) 535-7000.